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U. S. DEPARTMENT OF AGRICULTURE  
WAR FOOD ADMINISTRATION  
Office of Marketing Services  
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Reserve  
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LICENSING PROVISIONS OF THE  
PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930, AS AMENDED

The Perishable Agricultural Commodities Act, 1930, as amended, requires commission merchants, dealers and brokers engaged in the business of handling fresh or frozen fruits and/or vegetables in interstate or foreign commerce to obtain a license. The annual license fee is \$10.

The penalty for doing business without a license is fixed at not more than \$500 for each offense and \$25 for each day the offense continues. The act also provides that the Federal Government may, through an injunction suit, restrain a person from continuing to engage in business without a valid license.

Persons (this term includes individuals, partnerships, corporations and associations) who violate the act by engaging in business subject to the act without a valid and effective license may settle their liability, if such violation was not willful, by paying the fees accrued from the date the violation started to the date when application for license and fee are submitted. When the facts warrant, an additional sum not in excess of \$25 may be charged. Arrearage fees are computed on the basis of \$10 a year, or 83 1/3 cents a month or fraction thereof.

1. "Fresh fruits and fresh vegetables" includes all products generally considered by the trade as perishable fruits and vegetables, whether or not frozen or packed in ice and whether or not held in common or cold storage. It does not include fruit or vegetables which have been dried or manufactured into articles of food of a different character. The term applies to potatoes (whether for table or seed purposes), onions (not onion

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sets), and horseradish roots, even though less perishable than other vegetables. Cherries packed in an aqueous solution containing sulphur dioxide or other bleaching agent of sufficient strength to preserve the product, with or without the addition of hardening agents, are also included within the provisions of the act.

2. "Commission merchant" is defined as any person engaged in the business of receiving in interstate or foreign commerce any fresh or frozen fruits and/or vegetables for sale on commission or for or on behalf of another. This function is interpreted to include the transactions of a person who receives consignments on receiving markets for sale on commission and also of a person operating as grower's or shipper's agent on commission.

3. "Broker" is defined as any person engaged in the business of negotiating sales and purchases of fresh or frozen fruits and/or vegetables in interstate or foreign commerce for or on behalf of the vendor or purchaser respectively.

4. "Dealer" is defined as any person engaged in the business of buying or selling in carloads or in wholesale or jobbing quantities, as defined, any fresh or frozen fruits and/or vegetables in interstate or foreign commerce, except as provided in the following sub-paragraphs.

(a) "Wholesale or jobbing quantities," as defined in the regulations, means quantities of produce of not less than one ton in weight in a day shipped or received by rail, truck, boat or any other means of transportation. This definition has the effect of making sales or purchases of produce in lots of one ton or more in one or several transactions in a day fall within the classification of transactions for which persons are subject to license.

(b) Producers selling only products of their own raising are not "dealers" under the act and are not subject to license.



(c) Cooperative marketing associations, whether or not incorporated and whether operating on a profit or on a non-profit basis, in selling the products of their members or of others in interstate or foreign commerce, are subject to license.

(d) "Retailers" (selling to consumers only) are not "dealers" under the act unless, in any calendar year, they purchase more than 20 carloads or other wholesale or jobbing quantities (as defined above). Therefore, retailers are not subject to license unless they purchase in a calendar year in excess of 20 lots, including purchases aggregating in a day a ton or more of produce that has been received by the seller in interstate or foreign commerce.

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(e) "Processors" buying fresh fruits and/or fresh vegetables for processing, such as canning, drying, dehydrating, cold packing, freezing, packing or preserving in sulphur dioxide, manufacturing into potato chips, pickles, relish, salads, kraut, horseradish, vinegar, pastries, jellies, preserves, candy, ice cream, fruit and vegetable juices and concentrates, are required to be licensed if such produce has been received by them or the seller in interstate or foreign commerce before the canning or processing occurs and the purchases are in lots of one ton or more. They are not required to be licensed, however, if the purchasing and processing are both accomplished within the state where the produce is grown, even if the processed article is shipped out of the state, unless the product is frozen, cold packed or pecked in ice or consists of cherries in brine.

(f) Persons having purchases or sales in frozen (including cold packed) fruits or vegetables, or those packed in ice, or cherries in brine, in interstate or foreign commerce, are subject to license regardless of whether the processing occurs within the state where the produce is grown, if lots of a ton or more are involved.

(g) "Truckers" who buy or sell in interstate or foreign commerce fresh fruits and/or fresh vegetables in

wholesale or jobbing quantities of one ton or more are "dealers" within the meaning of the act and are subject to license.

(h) Persons hauling fresh fruits and/or fresh vegetables as "common or contract carriers" and having no financial interest in the goods are not subject to license, but when such persons haul a load in one direction as a carrier and handle as "dealers" fruits or vegetables of a ton or more in the opposite direction a license is required if they engage in such transactions with regularity or seasonally.

5. "Interstate or foreign commerce" includes not only transactions involving shipments between states but also transactions between persons within the same state if the quantity sold or bought from various dealers in a day aggregate in weight one ton or more and the produce is bought in the original container from commission merchants, dealers, brokers or others who received the shipment in interstate or foreign commerce, or if the purchases in shipping sections are in carloads or lots of a ton or more for shipment in interstate or foreign commerce.

6. Licenses issued under the act cover only transactions conducted in the business style and name shown on the license. In case of a change in the ownership or name of a business, a change in the members of a partnership or in case the business is conducted in a name different from that shown on the license, a new license is required. It is contrary to policy to issue more than one license to the same person or firm to operate in different names or to issue more than one license in the same name in the same section though operated under different ownership.

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